

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

United States District Court
Southern District of Texas**ENTERED**

November 17, 2015

David J. Bradley, Clerk

Nicole Marie Jones,

Plaintiff,

versus

All the Little Things Count, LLC.,

Defendant.

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Civil Action H-15-3163

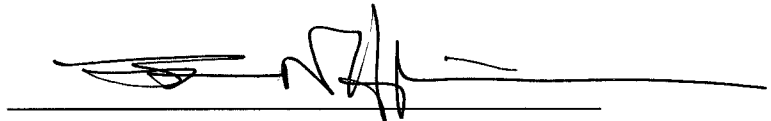
Opinion on Dismissal

1. From July 17, 2008, until March 17, 2015, Nicole Marie Jones worked for All The Little Things Count, LLC., as a home-care provider for patients who receive Medicaid benefits. Starting in 2009, Jones worked exclusively with one patient who suffered from severe autism. She says she developed a close relationship with the patient and his family. One of the members of the family was the commissioner of a sports league and, eventually, Jones officiated for it. She says that the family never complained about her job performance.
2. Starting in 2012, Little Things Count did not always pay Jones promptly for all of her services because she billed more hours than her Medicaid classification permitted – she was a full-time employee and Medicaid would only pay for forty hours of care per week. If she demanded payment for more than forty hours, the company would have to cover the price of the non-billable hours for the patient. Jones, after the first request for payment for non-billable hours, contacted the chief operating officer of Little Things Count, Sandra Graves. The company promptly paid her. In February 2014, she again demanded payment for 14 – 26 non-billable hours. She was not promptly paid.
3. On March 11, 2015, Jones told Shamar Fletcher, the Consumer Services Director at Little Things Count, that if she was not paid for her extra hours she would complain to the Department of Labor. She also arranged with the client to take time off to resolve the problem; she did not tell Little Things Count of the arrangement. On March 16, 2015, she did not report to work. On March 17, she was fired for cause.

4. In a lengthy termination notice, Little Things Count explained that Jones was fired for: (a) repeatedly violating protocol by arranging for times off from work without notifying it to ensure a replacement was available; (b) working more hours than insured by her patient's Medicaid plan; and (c) complaints about her ability to compassionately, responsibly, and safely care for patient in accord with its policies and the rules and guideline of the Department of Aging and Disability Services. As part of her termination settlement, it acquiesced her demands for additional pay and paid her for the non-billable twenty-six hours and for her last week of work.
5. She says that Little Things Count fired her because she complained about not being paid for the non-billable hours. It did not retaliate against her; it fired her the day after she did not show up for work as required. It fired her not because it did not want to pay what she was owed, it fired her because she refused to conform to the billing scheme prescribed by Medicare, her inability to follow company procedure, and legitimate concerns about the quality of care she provided.
6. After she was fired from Little Things Count she was not offered a contract to officiate during the soccer season of the sports league. She says that Little Things Count tortiously interfered with her contract because it told her former client, whose parent is the commissioner of the league, that she was fired for cause. To assert a claim for tortious interference with a prospective contract she has to show that Little Things Count committed an independently tortious or unlawful act to intentionally prevent her from entering the contract. Jones has shown no wrongdoing by Little Things Count. The commissioner knew about Jones from the quality of care that she had given in the commissioner's home and had a right to know the employment history of someone who may be hired her to interact with children.

7. Jones's claims will be dismissed with prejudice.

Signed on November 17, 2015, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lynn N. Hughes", is written over a horizontal line.

Lynn N. Hughes
United States District Judge